

**IN THE UNITED STATES COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In Re:	TEHUM CARE SERVICES,)	
	INC.)	
)	Case No. 23-90086
)	
	Debtor)	

MOTION FOR LEAVE TO FILE CLAIM OUT OF TIME

COMES NOW, Creditor, James Miller, individually, on behalf of the wrongful death class and as the Personal Representative of the Estate of Robert Miller, by and through counsel, Elizabeth S. Lynch, and moves the Court to grant leave for the Creditor to file a Claim in the pending bankruptcy case out of time. Creditor was not provided sufficient notice of the bankruptcy filing. The claims bar date was set for August 14, 2023 but Creditor has received no notices of any pleadings, including the claims bar date, from the Debtor. Creditor is not listed as a creditor in the schedules nor is he listed on the mailing matrix for purposes of notification.

Under the Federal Rules of Bankruptcy Procedure *Rule 3002(c)(6)* and pursuant to *Local Rule 3003-1(c)(4)*, the Court the court may extend the time in which a Creditor may file a claim by not more than sixty (60) days from the date of the order granting the motion if the Court determines either (1) notice of the commencement of the case was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely list the creditor's name and address as required by *Rule 1007(a)*; or (2) notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim. See F.R.B.P. 3002(c)(6) and Local Rule 3003-1(c)(4). Creditor's state court counsel engaged a bankruptcy attorney on November 6, 2023 to review the case for compliance with any deadlines and advise accordingly. Bankruptcy Counsel discovered the deadline for filing claims had passed

without notice of the deadline being provided by the Debtor and therefore Creditor requests leave for an additional sixty (60) days to file such claim in accordance with the local rules.

WHEREFORE, Creditor request this Court enter an *Order* granting a sixty (60) day extension of time to file a *Proof of Claim*, thereby allowing Creditors claim to be filed on or before sixty (60) days from the date of entry of this *Order*.

Dated: 11/27/2023

Respectfully submitted,

CHINNERY EVANS & NAIL, P.C.

/s/ Elizabeth S. Lynch

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NOTICE OF MOTION

Any response to the motion must be filed with 20 days of the date of this notice, pursuant to Local rule 9013-1C, with the Clerk of the United States Bankruptcy Court. Parties represented by an attorney shall file electronically at <https://ecf.mowb.uscourts.gov>. Pro se parties shall mail filings to: United States Bankruptcy Court, Western District of Missouri, 400 East 9th Street, Room 1510, Kansas City, MO 64106. Pursuant to 9013-1D, responses shall address the merits of the motion and, if applicable, set out actions to remedy the particular problem. The Court will serve such response electronically on the Trustee, debtor's attorney and all other parties to the case who have registered for electronic filing. Respondent shall serve all parties who are not served electronically. If a response is timely filed, a hearing will be held on a date and time determined by the Court. Notice of such hearing will be provided to all parties in interest. If no response is filed within 20 days, the Court will enter an order.

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2023, the foregoing was delivered via e-mail to all parties of interest that are registered to receive electronic filings on ECF, and regular first class, postage prepaid to all parties of interest that are not registered to receive electronic filings on ECF.

/s/ Elizabeth S. Lynch